

## *EXHIBIT B*

## Lisa F. Laux, PhD - 4/15/2019

1	<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA</p> <p>-----</p> <p>RYSTA LEONA SUSMAN, both ) Case No. 8:18-cv-00127 individually and as Legal ) Guardian of SHANE ALLEN ) LOVELAND, et al., ) Plaintiffs, ) vs. ) THE GOODYEAR TIRE &amp; ) RUBBER COMPANY, ) Defendant. )</p> <p>-----</p> <p>DEPOSITION OF LILA F. LAUX, Ph.D. April 15, 2019</p> <p>-----</p> <p>APPEARANCES:</p> <p style="padding-left: 40px;">KASTER, LYNCH, FARRAR &amp; BALL, LLP By Kyle W. Farrar, Esq. 1010 Lamar Street Suite 1600 Houston, Texas 77002 Appearing on behalf of Plaintiffs.</p> <p style="padding-left: 40px;">GREENSFELDER, HEMKER &amp; GALE, P.C. By Edward S. Bott, Jr., Esq. 10 South Broadway Suite 2000 St. Louis, Missouri 63102 Appearing on behalf of Defendant.</p>	3
2	<p style="text-align: center;">I N D E X (Continued)</p> <p>EXHIBITS INITIAL REFERENCE</p> <p>Exhibit 1 3-13-19 Laux Report 5</p> <p>Exhibit 2 Laux Testimony List 5</p> <p>Exhibit 3 Laux C.V. 5</p> <p>Exhibit 4 Laux Fee Schedules 6</p> <p>Exhibit 5 3-13-19 Laux Invoice 6</p> <p>Exhibit 6 Thumb Drive - *Retained by Mr. Bott* 7</p> <p>Exhibit 7 Deposition Notice 42</p> <p>Exhibit 8 Michelin Technical Bulletin 50</p> <p>Exhibit 9 Continental Product Service Information Bulletin 50</p> <p>Exhibit 10 Cooper Service Bulletin 50</p> <p>Exhibit 11 Laux Testimony List 115</p>	4
2	<p>Pursuant to Notice and the Federal Rules of Civil Procedure, the deposition of LILA F. LAUX, Ph.D., called by Defendant, was taken on Monday, April 15, 2019, commencing at 1:00 p.m., at 216-16th Street, Suite 600, Denver, Colorado, before Patricia M. Wrede, Registered Professional Reporter and Notary Public within and for the State of Colorado.</p> <p style="text-align: center;">I N D E X</p> <p>DEPOSITION OF LILA F. LAUX, Ph.D.</p> <p>EXAMINATION BY: PAGE</p> <p>Mr. Farrar --</p> <p>Mr. Bott 4</p>	4
2	<p style="text-align: center;">P R O C E E D I N G S</p> <p>(Exhibits 1 through 6 marked.)</p> <p style="text-align: center;">LILA F. LAUX, Ph.D.,</p> <p>being first duly sworn in the above cause, was examined and testified on oath as follows:</p> <p style="text-align: center;">E X A M I N A T I O N</p> <p>BY MR. BOTT:</p> <p><b>Q Would you tell me your full name, please?</b></p> <p>A My full name is Lila Carol Fitzgerald Laux.</p> <p><b>Q And, Doctor -- I call you Doctor. You hold a Ph.D., correct?</b></p> <p>A I do.</p> <p><b>Q Do you prefer to be referred to as Doctor or Ms. or --</b></p> <p>A Well, in professional settings I'm usually Doctor.</p> <p><b>Q All right. Would this be a professional setting then?</b></p> <p>A I think so.</p> <p><b>Q All right then.</b></p> <p><b>Dr. Laux, my name is Ed Bott. We have not met before today, but I represent the Goodyear Tire &amp; Rubber Company, and I'm going to be asking you various questions regarding your involvement in this</b></p>	4

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<p style="text-align: right;">49</p> <p>1 This one says Passat and this one says 2 Jetta. 3 <b>Q So is the Jetta owner's manual referenced</b> 4 <b>on Exhibit 6?</b> 5 A Evidently not. 6 <b>Q Is there a reason why you didn't produce</b> 7 <b>that to me?</b> 8 A Human error on my part. Sorry. 9 <b>Q With regard to your opinion 5, do you hold</b> 10 <b>an opinion that in fact Goodyear should have issued a</b> 11 <b>public service bulletin as you describe in opinion 5</b> 12 <b>in the year 1990?</b> 13 A Well, it's a product service bulletin, not 14 a public service bulletin. 15 <b>Q Thank you.</b> 16 A And do I think they could have? Yes. Do 17 I think they should have? I don't think so, no. 18 <b>Q All right. Do you think that Goodyear</b> 19 <b>should have provided a product service bulletin as</b> 20 <b>the kind you describe in 1995?</b> 21 A I'm not sure when all the -- this one's 22 from Goodyear that was a product bulletin in 2006 in 23 which they said they didn't believe they needed to do 24 anything about the old tires if I recall. 25 <b>Q So would you agree then that you're not</b></p>	<p style="text-align: right;">51</p> <p>1 <b>February 2006, correct?</b> 2 A It is. 3 <b>Q Exhibit 10 is Cooper, and I don't see a</b> 4 <b>date on the Cooper document. Do you happen to know?</b> 5 A Let me see if I have it. Mine says 2006, 6 Light Truck and Full-Size Spare Tire Service 7 Bulletin. It says 2006 in the reference. Service 8 Life for Passenger Car, Light Truck and Full-Size 9 Spare Tires. Yes. 10 <b>Q Okay. So the product service bulletins</b> 11 <b>that you're aware of from other manufacturers would</b> 12 <b>be these three that we just identified?</b> 13 A Well, these three, and I think I have 14 others. Let's see what else I've referenced in here. 15 I have one from the Japan Automotive Tyre 16 Manufacturers Association, Cooper, Michelin, 17 Continental, Cooper, Firestone, and then over here, 18 this is Cooper too. 19 So these are the ones I referenced, yes. 20 <b>Q Is the Japanese reference on Exhibit 6?</b> 21 A It's not, and, you know, it's not properly 22 referenced in here either. It just says Japan 23 Automotive Tyre Manufacturers Association. So I'm 24 not sure which one it is. 25 <b>Q So that would be one that I couldn't even</b></p>
<p style="text-align: right;">50</p> <p>1 <b>critical of Goodyear for not issuing such a product</b> 2 <b>service bulletin in the year 1994?</b> 3 A No, I'm not. 4 <b>Q All right. As we look at the other</b> 5 <b>product service bulletins that you mention -- and I</b> 6 <b>think these had been provided to me.</b> 7 A The Service Life for Passenger Car from 8 Cooper, 2006? 9 <b>Q Yeah, I'm just going to run through --</b> 10 A There are some others. 11 <b>Q Let me mark all of these right now. We</b> 12 <b>might reference them later. There's --</b> 13 A They're almost all 2006. 14 <b>Q I have three of them here.</b> 15 <b>(Exhibits 8 through 10 marked.)</b> 16 <b>Q (By Mr. Bott) Doctor, Exhibits 8, 9 and 10</b> 17 <b>are product service bulletins or technical bulletins</b> 18 <b>that were provided to me in advance of your</b> 19 <b>deposition, and I believe all of these are on</b> 20 <b>Exhibit 6, although I may have -- I didn't have a lot</b> 21 <b>of time to compare so maybe I missed something.</b> 22 <b>Exhibit 8 is from Michelin, and it's dated</b> 23 <b>February 9, 2006, correct?</b> 24 A Yep, that's the date. 25 <b>Q Continental is Exhibit 9, and that's dated</b></p>	<p style="text-align: right;">52</p> <p>1 <b>find if I tried to search for it.</b> 2 A Oh, yeah, you could. 3 <b>Q Well, you said -- I thought you said it's</b> 4 <b>not properly referenced?</b> 5 A Well, it gives you the name of the Japan 6 Automotive Tyre Manufacturers Association, and you 7 can go in there and look for tire service bulletin 8 and you'll find it. 9 <b>Q So these product service bulletins on</b> 10 <b>aging were first issued evidently in 2006.</b> 11 A Correct. 12 <b>Q And so then is it your opinion that in the</b> 13 <b>2006 time frame is when Goodyear should have issued a</b> 14 <b>product service bulletin on the effects of tire aging</b> 15 <b>like these manufacturers did?</b> 16 A Well, I think they should have made that 17 information public in -- and by 2006 other tire 18 manufacturers had made the decision to make that 19 information public, so it would have been appropriate 20 for Goodyear to make it available at that time as 21 well. 22 <b>Q And you're aware that Goodyear has issued</b> 23 <b>product service bulletins on aging and in fact did so</b> 24 <b>as far back as March of 2006 --</b> 25 A Yes.</p>

13 (Pages 49 to 52)

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<p style="text-align: right;">61</p> <p>1 information produced about this issue, and Goodyear 2 has certainly been aware of all of this information 3 as it was being produced. 4 MR. BOTT: Move to strike the last part as 5 nonresponsive. 6 <b>Q (By Mr. Bott) Doctor, I mean, I've tried</b> 7 <b>to give you a lot of latitude in your answer, and I'm</b> 8 <b>trying not to cut you off, but I would appreciate it</b> 9 <b>if you could try to answer my question. If I have</b> 10 <b>follow-up questions, I'll ask those.</b> 11 A Well, I would say that you -- if you ask a 12 pointed question and you only want a response that 13 you find favorable, I can't follow your request 14 there, so I'll do the best I can to answer your 15 questions. 16 <b>Q I'm not looking for things that are only</b> 17 <b>favorable, because I realize that you probably have</b> 18 <b>very little to say that would be favorable to me.</b> 19 <b>I'm here to explore your opinions. All right? And I</b> 20 <b>only asked you to identify for me the references, and</b> 21 <b>you did that, but then you continued to go on and</b> 22 <b>provide detail that was not part of my question. I</b> 23 <b>know you've been deposed hundreds of times, testified</b> 24 <b>at trial hundreds of times --</b> 25 A No.</p>	<p style="text-align: right;">63</p> <p>1 <b>Q March 1994.</b> 2 A This says e.g., which means for example, 3 right? 4 <b>Q That is what it means, yes, thank you.</b> 5 <b>And so the 24th week of 1994 is in March?</b> 6 A Well, I don't know. We could go back and 7 figure it out. See, that's one of the big problems 8 with this kind of dating. Why would you say the 24th 9 week of '94? I mean, what -- that has no relevance 10 to any way that people in the public and people who 11 are driving cars think about dates, is it? You don't 12 know it either. I don't know it either. 13 So if we divide it by 4, we get 6, so 5. 14 January, February, March, April, May. It's probably 15 May. 16 <b>Q Well, what about June? Do you think --</b> 17 A Could be June. 18 <b>Q -- it might be June?</b> 19 A Sure. 20 <b>Q Okay. So --</b> 21 A I'd have to go back and count every week 22 between the 1st of January and the -- whenever this 23 tire was manufactured to determine. 24 <b>Q And that wouldn't be a challenge for you,</b> 25 <b>would it?</b></p>
<p style="text-align: right;">62</p> <p>1 <b>Q Well, you've testified hundreds of times.</b> 2 <b>Okay?</b> 3 A By deposition, yes. 4 <b>Q Correct. You know what we're doing.</b> 5 A Sure I do. 6 <b>Q And I'd appreciate it if you could just</b> 7 <b>answer my questions.</b> 8 A Well, I will answer your questions the 9 best way I know how. That's all I can promise. 10 <b>Q Okay. Number 6, you say that Goodyear</b> 11 <b>should have provided the, quote, born date of the</b> 12 <b>tire on both sides of the tire sidewall --</b> 13 A Right. 14 <b>Q -- e.g., tire manufacture date</b> 15 <b>February 1997.</b> 16 <b>All right. So this tire was manufactured</b> 17 <b>in 1994.</b> 18 A 24th week. 19 <b>Q And so it's your opinion that when it was</b> 20 <b>manufactured in the 24th week of 1994 that Goodyear</b> 21 <b>should have put on both sidewalls the wording "Tire</b> 22 <b>Manufacture Date" --</b> 23 A March. 24 <b>Q March?</b> 25 A 1994. Something like that.</p>	<p style="text-align: right;">64</p> <p>1 A Not particularly, and it wouldn't be a 2 challenge for the tire manufacturer either, would it? 3 <b>Q And so what they should say is Tire</b> 4 <b>Manufacture Date June 1994 in this case.</b> 5 A If that's -- 6 <b>Q Assuming June was the week --</b> 7 A Sure. 8 <b>Q -- or the week was within the month of</b> 9 <b>June.</b> 10 A Sure. 11 <b>Q All right. Now, you're not saying that</b> 12 <b>the manufacturers should hypothetically -- if the</b> 13 <b>24th week began on June 16, should they say</b> 14 <b>manufactured the week of June 16, 1994?</b> 15 A Well, I think I just showed you that I 16 think the month and the year is probably adequate. 17 <b>Q Okay, good. And so then what would happen</b> 18 <b>is that as you roll into a new month, then they</b> 19 <b>should change it to be July of 1994.</b> 20 A Well, they change the date -- 21 <b>Q August.</b> 22 A -- in the DOT every time -- every week 23 evidently. 24 <b>Q I'm not arguing. I'm just trying to</b> 25 <b>understand.</b></p>

16 (Pages 61 to 64)

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<p style="text-align: right;">65</p> <p>1 So they would change it every month,  2 correct, to --  3 A Yeah.  4 Q -- to put the --  5 A As they change --  6 Q -- born date.  7 A As they change the DOT date, they would  8 look and see, okay, what month was it --  9 Q And the reason you want it on both sides  10 is because sometimes the tires are mounted such that  11 the side with the labeling on it might be to the  12 inside. Is that what you understand?  13 A Well, that's something -- that's  14 specifically something NHTSA mentioned, yes.  15 Q Now, with regard to the label itself, this  16 born date, do you have a judgment as to what type of  17 print should be used or what color or where it should  18 be located?  19 A Well, there's plenty of room on the side  20 of a tire, and lots of things are put on the side of  21 the tire. I do think this needs to be -- can  22 certainly be alongside the DOT number. I haven't  23 analyzed exactly where on the tire it would go. That  24 would be up to the tire manufacturer to assure that  25 it's in a location that would be seen and read, could</p>	<p style="text-align: right;">67</p> <p>1 it should be located, correct?  2 A No specific opinion yet, no. I mean, that  3 would be something --  4 Q You don't --  5 A -- I would work on with the manufacturer,  6 because it's their tire.  7 Q You don't have an opinion as to the size  8 of the lettering or the font that should be used,  9 correct?  10 A I do have an opinion. It should follow  11 the ANSI standard.  12 Q And what is that?  13 A The ANSI warning standard? Z535.4.  14 Q Well, what does it tell me in terms of  15 size in this context?  16 A It tells you for any viewing distance how  17 large the font should be --  18 Q And have you --  19 A -- so once you determine how far -- what  20 the viewing distance is, then you can determine  21 easily what the font size should be. And I haven't  22 done that. That's up to the manufacturer to do.  23 Q Okay. So you haven't done it.  24 You say on the next page: Had Mr. Bueser  25 known this tire -- it says "tired" but it clearly</p>
<p style="text-align: right;">66</p> <p>1 be seen and read.  2 Do I think it should be colored? It would  3 be dandy if it could be. I don't think it's  4 reasonable to make it colored.  5 Q All right.  6 A Do I think the print should be larger than  7 the print that's on the DOT number? That would be a  8 very good thing because that's quite small. So we  9 could determine by looking at the ANSI warning  10 standard what distance we think people are going to  11 be from the tire, and we can determine what the font  12 size should be from that. So --  13 Q Well --  14 A -- there are a number of things that the  15 manufacturer of the tire would need to determine  16 before putting this message on the side of a tire.  17 Q All right. So then in terms of your  18 opinion, as we're here today to talk about, it's your  19 opinion that the born date should be on the sidewall  20 of the tire on both sides of the tire?  21 A Well, that's what the -- that's what this  22 says.  23 Q I'm just trying to run through it with  24 you. I understand that's what it says.  25 But you don't have an opinion as to where</p>	<p style="text-align: right;">68</p> <p>1 should be "tire" -- was approximately 20 years old,  2 it is likely he would not have purchased it.  3 What's the basis of that conclusion?  4 A Well, I think he would have recognized  5 that it was likely to not be still a very good tire  6 after -- if it was 20 years old.  7 Q Have you read anything that leads you to  8 conclude that Mr. Bueser would not have purchased the  9 tire had he -- had the born-on date been on it?  10 A Not from Mr. Bueser, but I've read other  11 data, reports about people purchasing tires, and  12 they -- you know, most people say they wouldn't want  13 a 20-year-old tire.  14 Q What other data?  15 A Well, in some of those articles that I  16 reference, like with Kim and -- Cowley, Kim and  17 Wogalter and Kalsher, Wogalter and Laughery.  18 Q Do you have an opinion on whether other  19 people would -- well, strike that.  20 Do you know when Mr. Bueser purchased  21 these tires?  22 A Evidently about a year and a half before  23 the accident.  24 Q Do you know from where he purchased them?  25 A It's not absolutely certain whether he</p>

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<p style="text-align: right;">73</p> <p>1 appreciate having that on their tire? Would you 2 agree with that?</p> <p>3 A I would agree that some owners might not 4 want red or white or yellow print on the sides of 5 their tires.</p> <p>6 Q And with regard to your prototype, you go 7 on to state that, "The prototype warning should be 8 validly tested with a representative user group to 9 determine whether it can be seen and read and whether 10 it is understood."</p> <p>11 You have not done that testing validation, 12 have you?</p> <p>13 A Well, I can't stamp tires, so, no, I 14 haven't.</p> <p>15 Q All right. And are you aware of anyone 16 who has undertaken that testing?</p> <p>17 A I don't think any tire manufacturer has 18 attempted to stamp this into their tire, no.</p> <p>19 Q Are you aware of anyone, even independent 20 of a tire manufacturer, who has attempted to undergo 21 this testing -- or undertake this testing?</p> <p>22 A There is no way anyone can undergo this 23 testing unless they have the capacity to stamp a 24 tire.</p> <p>25 Q Okay. So the answer is --</p>	<p style="text-align: right;">75</p> <p>1 A I certainly wish it were, but do I expect 2 that it would have been? No.</p> <p>3 Q Okay. And why is it that you expect it 4 would not have been?</p> <p>5 A Well, I think in June of 1994 there was 6 not a general consensus among all of the tire 7 manufacturers about this issue.</p> <p>8 Q And so had it not been included back in 9 June of 1994, you wouldn't have been critical of 10 Goodyear or any tire manufacturer for not putting it 11 on there because there was no recognized consensus in 12 the industry at that time.</p> <p>13 A Well, would I be critical? Would I think 14 that they probably already knew about this based on 15 the early -- wait a minute. Let me give my answer.</p> <p>16 Q I was.</p> <p>17 A No, you weren't. You were getting ready 18 to interrupt me.</p> <p>19 So, you know, this issue was already known 20 in the community as recognized by VW putting it on 21 their car, but do I -- would I be critical? I would 22 be critical of anybody who knew something about a 23 hazard and didn't tell people. Do I -- do I 24 understand why this wasn't yet placed on the tire? 25 Yes.</p>
<p style="text-align: right;">74</p> <p>1 A Has to be no, right?</p> <p>2 Q -- there is no such testing.</p> <p>3 A Of course not.</p> <p>4 Q All right. And then you state, "Once a 5 warning is in place, data should be collected on 6 accidents to determine whether the warning is being 7 effective."</p> <p>8 A That's standard.</p> <p>9 Q And this is obviously stating the obvious, 10 but there clearly is no data that you're aware of 11 that goes to the effectiveness of such a prototype 12 warning, correct?</p> <p>13 A Well, since this prototype warning hasn't 14 been stamped into any tires that I'm aware of, 15 clearly there's not.</p> <p>16 Q All right.</p> <p>17 A But that's standard practice for any 18 manufacturer, is to collect data like this to 19 determine if something is effective or not, a warning 20 is effective or not.</p> <p>21 Q And clearly, given that this relates to 22 stamping on the tire at the time of manufacture, I 23 assume it's your opinion that this prototype warning 24 should have been on this tire at the time it was 25 manufactured in June of 1994?</p>	<p style="text-align: right;">76</p> <p>1 Q Yeah, so in terms of -- and I want to 2 understand whether -- is it your opinion to a 3 reasonable degree of professional certainty that in 4 this case this tire was unsafe as manufactured in 5 June of 1994 by virtue of the fact that it did not 6 have this prototype warning on it?</p> <p>7 A Well, actually I do believe that it was 8 unsafe not to have a -- it doesn't have to be this as 9 the prototype -- not to have this information about 10 the age that they -- the tire was manufactured so 11 that people could determine how old it was, but I 12 understand that at that time tire manufacturers were 13 not warning about this issue and they were still 14 resistant to the idea, I believe, that tires aged 15 out.</p> <p>16 So am I surprised that it wasn't on there? 17 No. Do I wish it had been on there? Yes. Am I 18 critical? Well, I don't know whether I would say I'm 19 critical or not. I understand why it's not on there.</p> <p>20 Q And without going through each of them 21 individually, isn't it true that the product service 22 bulletins we identified, the NHTSA study you've 23 referenced, the Baldwin study that you've referenced, 24 and probably others, all of those relate to activity 25 that was ongoing in the mid 2000's?</p>

19 (Pages 73 to 76)



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<p style="text-align: right;">77</p> <p>1 A Yes, a lot of it was -- started in the 2 early 2000's, yes.</p> <p>3 <b>Q And is there anything other than the 4 Volkswagen reference that you mentioned on your 5 Appendix B that predates all of that, that goes back 6 into the 1990's and deals with this issue of aging?</b></p> <p>7 A I bet you I didn't put it in that list, 8 but I do have a bunch of old operator's manuals, and 9 just like the old Jetta manual, many of them talk 10 about replace -- they're all European cars. All 11 European cars only. I never saw an it in an American 12 car, but I did see it in other European cars that --</p> <p>13 <b>Q Which European cars?</b></p> <p>14 A I'm not sure, but I can certainly get you 15 those.</p> <p>16 <b>Q Well, as you sit here today, can you 17 identify any owner's manual from --</b></p> <p>18 A BMW I think was one of them.</p> <p>19 <b>Q BMW what year?</b></p> <p>20 A Well, in the early 1900's -- 1990's, but I 21 can't tell you exactly for sure which year, but, you 22 know, I did cite that one because I liked the 23 forthright way in which they talked about tires and 24 spare tires.</p> <p>25 <b>Q Where did you cite the BMW?</b></p>	<p style="text-align: right;">79</p> <p>1 <b>statement based again solely on the other references 2 that you've told me about in this deposition?</b></p> <p>3 <b>Does that make sense to you what I'm 4 asking?</b></p> <p>5 A It does, but there's a lot of things that 6 I said it was foreseeable to Goodyear about. So, you 7 know, they talk about reasons to replace a tire, and 8 aging is not one of them, but it was foreseeable to 9 Goodyear that a tire could be 20 years old and not 10 have any of those -- that's what this statement is 11 all about -- not have any of those characteristics 12 that they say are reason to replace a tire.</p> <p>13 So they could foresee that a tire could 14 get to be 20 years old and not have any of those 15 cracks, bulges, tread worn down to a minimum depth or 16 damage caused by underinflation or overloading, but 17 that it would be 20 years old and that based on the 18 NHTSA information and the other information, Baldwin 19 and so forth, that being 20 years old alone meant 20 that it was more likely to lose tread.</p> <p>21 <b>Q Now, do those references say that just 22 being 20 years old makes it more likely to lose 23 tread?</b></p> <p>24 A If you look at the -- was more likely to 25 fail, I guess I should say, and typically that</p>
<p style="text-align: right;">78</p> <p>1 A I didn't.</p> <p>2 <b>Q Oh.</b></p> <p>3 A I cited this one, which is what I said 4 that I thought -- this is from a Jeep in 2013 that 5 was in the owner's manual, and I thought that was an 6 excellent warning.</p> <p>7 <b>Q So other than the European owner's manuals 8 that you're unable to specifically identify, are you 9 aware of any study or reference or work being done 10 here in the United States in the 1990's that deals 11 with this issue? Can you cite me to any?</b></p> <p>12 A Well, I think what NHTSA started the study 13 in 2002.</p> <p>14 <b>Q All right. So that would be the earliest 15 that you're aware of?</b></p> <p>16 A That's the earliest one that I know of in 17 the United States, yes.</p> <p>18 <b>Q And turning then to number 8, you refer to 19 a couple of things there that in your judgment would 20 be foreseeable to Goodyear regarding a tire 20 years 21 old. And I don't need to get too deep into the weeds 22 on this. I just want to know, is there anything here 23 specifically from Goodyear, from a Goodyear witness, 24 from a Goodyear document, that leads you to conclude 25 this was foreseeable to Goodyear, or is this</b></p>	<p style="text-align: right;">80</p> <p>1 failure is detreading.</p> <p>2 But if you look at the graph in the NHTSA 3 reports, if you look at John Baldwin's data, sure, it 4 does say that they are more likely to fail the older 5 they get after six years old.</p> <p>6 <b>Q Okay. But it doesn't say that they're 7 more likely to lose tread.</b></p> <p>8 A I don't recall whether they said that or 9 whether they just said fail.</p> <p>10 <b>Q And is the NHTSA data on the Ford 11 Firestone tires?</b></p> <p>12 A No. That was one of the impetus for doing 13 it, but they did research on -- the 2002 study was on 14 tire failure, period.</p> <p>15 <b>Q All right.</b></p> <p>16 A Tire failure, period.</p> <p>17 See, when they did this research report to 18 Congress in 2007 on tire aging, that was not just on 19 the Firestone tires.</p> <p>20 <b>Q Okay. Are you aware of -- and I apologize 21 if I've asked you this, but -- and sometimes I tend 22 to jump around and I forget whether I've asked you 23 things before or not.</b></p> <p>24 <b>Are you aware of any manufacturer that 25 puts the born date on their tire?</b></p>

20 (Pages 77 to 80)

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<p style="text-align: right;">81</p> <p>1 A No, I'm not.</p> <p>2 <b>Q Are you aware of any manufacturer that</b></p> <p>3 <b>puts any type of a warning regarding the aging on</b></p> <p>4 <b>their tire?</b></p> <p>5 A No. They have some warnings on their</p> <p>6 tires but not about aging.</p> <p>7 <b>Q All right. And do we agree that NHTSA has</b></p> <p>8 <b>never recommended that such a warning about aging be</b></p> <p>9 <b>put on the tires, have they?</b></p> <p>10 A I don't think they have, no.</p> <p>11 <b>Q And do we agree that NHTSA has never</b></p> <p>12 <b>recommended that a born date be put on tires, have</b></p> <p>13 <b>they?</b></p> <p>14 A They haven't, although they have</p> <p>15 recognized the difficulty that people have</p> <p>16 determining the manufacture date of tires based on</p> <p>17 the DOT number, but they haven't made any effort to</p> <p>18 change that.</p> <p>19 <b>Q And do we agree that there is no federal</b></p> <p>20 <b>regulation that requires placement of an age-related</b></p> <p>21 <b>warning on the tires?</b></p> <p>22 A There's not.</p> <p>23 <b>Q I want to ask you about number 9 if I may.</b></p> <p>24 A Okay.</p> <p>25 <b>Q You say, "Goodyear's failure to adequately</b></p>	<p style="text-align: right;">83</p> <p>1 then when he went into Kearney's to have those tires</p> <p>2 put on his vehicle, they would have known about it,</p> <p>3 and they would have said to him, look, these tires</p> <p>4 are 20 years old, we don't want to mount these tires.</p> <p>5 Like Discount Tire won't put a tire 10 years old or</p> <p>6 even service a tire 10 years old anymore because they</p> <p>7 recognize the hazard. They're probably one of the</p> <p>8 biggest maintainers in the U.S.</p> <p>9 So if this had gotten out to places like</p> <p>10 Kearney's and other places, smaller places --</p> <p>11 Discount's a very big place. They do -- have had</p> <p>12 problems and so they recognize the issue, but</p> <p>13 someplace like Kearney needs to get the information,</p> <p>14 and this could be put out by Goodyear.</p> <p>15 <b>Q Well, other than the product service</b></p> <p>16 <b>bulletins, are you saying that there is some other</b></p> <p>17 <b>means by which that should have been communicated, or</b></p> <p>18 <b>is it just through the product service bulletins?</b></p> <p>19 A Well, it's my understanding that most tire</p> <p>20 manufacturers just send the tire service bulletins to</p> <p>21 places where their tires are bought in large</p> <p>22 quantities.</p> <p>23 <b>Q And that's sufficient, correct, in your</b></p> <p>24 <b>judgment?</b></p> <p>25 A Well, it would be better if they were sent</p>
<p style="text-align: right;">82</p> <p>1 <b>warn and instruct vehicle owners and maintainers and</b></p> <p>2 <b>drivers about the hazards associated with driving at</b></p> <p>3 <b>highway speeds on a tire more than 10 years old</b></p> <p>4 <b>created an unreasonably dangerous situation, which</b></p> <p>5 <b>precipitated the injury/death accident."</b></p> <p>6 <b>I take that to mean that you're talking</b></p> <p>7 <b>about the accident that happened here to Mr. Loveland</b></p> <p>8 <b>and Mr. Summers?</b></p> <p>9 A Yes. It wasn't a death, though, actually.</p> <p>10 <b>Q Yes. And when you say "Goodyear's failure</b></p> <p>11 <b>to adequately warn and instruct vehicle owners," how</b></p> <p>12 <b>would in your judgment Goodyear have adequately</b></p> <p>13 <b>warned and instructed vehicle owners? Would that</b></p> <p>14 <b>have been through the labeling on the tire that we've</b></p> <p>15 <b>talked about?</b></p> <p>16 A Well, that would have been one way, but of</p> <p>17 course I'm not talking about that here.</p> <p>18 <b>Q Okay. What are you talking about here?</b></p> <p>19 A Well, I'm talking about the fact that if</p> <p>20 they had notified all the tire places like Kearney's</p> <p>21 and everybody who -- you know, who has -- who</p> <p>22 maintains their tires, and certainly it could have</p> <p>23 been put in the driving -- wherever people go to get</p> <p>24 their driver's licenses renewed, all those kinds of</p> <p>25 locations, to make this information widely known,</p>	<p style="text-align: right;">84</p> <p>1 out to places like Kearney's and other smaller groups</p> <p>2 of people who also deal with tires, mount and service</p> <p>3 tires, and there are plenty of them. And I recognize</p> <p>4 that, you know, locating all of them is not</p> <p>5 necessarily simple, but they are all registered with</p> <p>6 the state typically and so they can be located. So</p> <p>7 if you want to make this information public, if you</p> <p>8 want to make people aware of it, you could certainly</p> <p>9 have public service announcements on the radio and on</p> <p>10 TV.</p> <p>11 <b>Q Well, I know you could do a lot of things.</b></p> <p>12 <b>What --</b></p> <p>13 A Sure you could, and it's an issue that you</p> <p>14 should do because it's clearly one that the driving</p> <p>15 public is not aware of.</p> <p>16 <b>Q Well, but, you know, Dr. Laux, I'm trying</b></p> <p>17 <b>to differentiate between things that you think would</b></p> <p>18 <b>be a good idea versus your opinions in this case.</b></p> <p>19 <b>Okay? And so I --</b></p> <p>20 A My opinion is --</p> <p>21 <b>Q So I need --</b></p> <p>22 MR. FARRAR: Let him finish the question.</p> <p>23 <b>Q (By Mr. Bott) I need to understand how is</b></p> <p>24 <b>it that you think Goodyear failed to provide adequate</b></p> <p>25 <b>information -- or failed -- I'm sorry, failed to</b></p>

21 (Pages 81 to 84)



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<p style="text-align: right;">101</p> <p>1 <b>does not include this warning?</b></p> <p>2 A Well, you know, if -- this is -- you're</p> <p>3 asking me a funny question.</p> <p>4 So, you know, if a product has a hazard</p> <p>5 that needs to be warned about, that doesn't</p> <p>6 necessarily make the product unsafe; it makes the use</p> <p>7 of it unsafe for the user who needs the warning. So</p> <p>8 I know that sounds very circular, but what I'm trying</p> <p>9 to say is I do think every tire needs to have this</p> <p>10 warning on it.</p> <p>11 <b>Q And so then every tire would be unsafe for</b></p> <p>12 <b>use to the general public without this warning.</b></p> <p>13 A Well, after six years, yes.</p> <p>14 <b>Q Well --</b></p> <p>15 A It's not unsafe until it starts to be old</p> <p>16 and have this potential for failure, but it is unsafe</p> <p>17 in the sense that people need to know this</p> <p>18 information when they buy a tire or when they put a</p> <p>19 tire on their car or when they buy a used car and</p> <p>20 look to see something about the tires or get the --</p> <p>21 get the spare tire out of their trunks. They need</p> <p>22 this information every time those things happen.</p> <p>23 <b>Q And so then as soon as the tire hits six</b></p> <p>24 <b>years, it becomes unsafe.</b></p> <p>25 A Well, the tire becomes unsafe, yes.</p>	<p style="text-align: right;">103</p> <p>1 A Well, by like these other people who have</p> <p>2 written papers about it, like Michael Wogalter and</p> <p>3 Kalsher, Michael Kalsher, and Kenneth Laughery. All</p> <p>4 my colleagues.</p> <p>5 <b>Q Am I correct that you have no testing</b></p> <p>6 <b>studies or surveys that are relevant to a vehicle</b></p> <p>7 <b>owner's decision to replace or inspect tires based on</b></p> <p>8 <b>a sidewall expiration date?</b></p> <p>9 A Well, since there is no sidewall</p> <p>10 expiration date, I don't think there could be any</p> <p>11 studies on that.</p> <p>12 <b>Q Okay.</b></p> <p>13 A There are those studies that I've cited to</p> <p>14 you several times that talk about how people don't</p> <p>15 understand that the DOT number has a date of</p> <p>16 manufacture on it.</p> <p>17 <b>Q In the study of human factors, is there an</b></p> <p>18 <b>accepted methodology for prioritizing risks</b></p> <p>19 <b>associated with the use of various products?</b></p> <p>20 A Well, there is -- there are methodologies</p> <p>21 for doing that that require that the manufacturer</p> <p>22 have identified the hazards and the consequences of</p> <p>23 the hazards, so you have a table, if you want to call</p> <p>24 it that, where you have the probabilities on one axis</p> <p>25 and the consequences on another axis, and those that</p>
<p style="text-align: right;">102</p> <p>1 <b>Q All right. Okay. And that's irrespective</b></p> <p>2 <b>of the service conditions of that tire. It's just in</b></p> <p>3 <b>your judgment, chronological age alone, once a tire</b></p> <p>4 <b>hits six years of age, if it doesn't have this</b></p> <p>5 <b>prototype warning on it, it is unsafe. Is that</b></p> <p>6 <b>right?</b></p> <p>7 A Well, you know, that's not the way I think</p> <p>8 about it, but it is unsafe after six years with or</p> <p>9 without the warning.</p> <p>10 <b>Q Okay.</b></p> <p>11 MR. BOTT: Let me take a break. Okay?</p> <p>12 THE DEPONENT: Sure.</p> <p>13 (Recess from 3:14 p.m. to 3:20 p.m.)</p> <p>14 <b>Q (By Mr. Bott) Dr. Laux, has your opinions</b></p> <p>15 <b>on aging and labeling, has that been peer reviewed by</b></p> <p>16 <b>anyone?</b></p> <p>17 A Aging and labeling? You mean tire aging?</p> <p>18 <b>Q Your opinions that you're --</b></p> <p>19 A No.</p> <p>20 <b>Q -- here -- okay.</b></p> <p>21 <b>Is your opinions that you've given here</b></p> <p>22 <b>today, is that generally accepted in the scientific</b></p> <p>23 <b>community?</b></p> <p>24 A Well, in the human factors community, yes.</p> <p>25 <b>Q By whom?</b></p>	<p style="text-align: right;">104</p> <p>1 come -- fall into the high probability -- low -- that</p> <p>2 fall into the high consequences section typically are</p> <p>3 the ones that we want to put on product warnings</p> <p>4 about.</p> <p>5 So they'll be -- when you look at one of</p> <p>6 these tables, it will be yellow, green and red</p> <p>7 depending, you know, the hazard and the probability</p> <p>8 and the consequences. Those that are in the red zone</p> <p>9 will be the ones that you want to put on product</p> <p>10 warnings about. Mainly you would like to design</p> <p>11 those hazards out if you can, but if you can't, then</p> <p>12 those are the ones that you would warn about.</p> <p>13 <b>Q And is there potential risks associated</b></p> <p>14 <b>with including too many warnings on a product?</b></p> <p>15 A Oh, sure. Everybody likes to talk about</p> <p>16 the over-warning and the issue that people stop</p> <p>17 paying attention to warnings --</p> <p>18 <b>Q You don't --</b></p> <p>19 A -- because you put so many on there.</p> <p>20 That's an issue that's been floated around in the</p> <p>21 public for a long time. But if you do the kind of</p> <p>22 analysis that I was just talking about, you would</p> <p>23 either -- you would determine one of two things.</p> <p>24 Either your product is too dangerous to let the</p> <p>25 public have access to it because it needs to have</p>

26 (Pages 101 to 104)

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<p style="text-align: right;">105</p> <p>1 this long laundry list of dangers and warnings, or  2 you would figure out that there are a few things that  3 are very serious issues, hazards, associated with use  4 of the product and those are the things you would  5 want to put the warnings about.  6 <b>Q Have you done this analysis of the two</b>  7 <b>columns and the consequences and the risks as to</b>  8 <b>tires?</b>  9 A I can't do that. Manufacturers of tires  10 can do that, but I can't do that.  11 <b>Q And you cannot do that because of what?</b>  12 A I wouldn't have all the information I  13 would need to do it. Tire manufacturers should do  14 it.  15 <b>Q And your opinion here that a warning would</b>  16 <b>have made a difference as I understand it is based on</b>  17 <b>the conclusion that had there been a warning, then</b>  18 <b>the tires never would have been installed.</b>  19 A I believe that's true. I believe if  20 Kearney had understood that a 20-year-old tire was  21 not safe to be driven on the road, I don't think they  22 would have installed it. I mean, I know that's the  23 decision that Discount Tires has taken.  24 <b>Q I got that. Okay. I just want to</b>  25 <b>understand the causation part of it.</b></p>	<p style="text-align: right;">107</p> <p>1 <b>right to rely on the recommendations of the vehicle</b>  2 <b>manufacturer as contained in that owner's manual?</b>  3 A In what way rely on it?  4 <b>Q Well, as an example -- just let's focus on</b>  5 <b>the issue we're talking about in terms of tire</b>  6 <b>service life and your thought that tires 10 years old</b>  7 <b>should be taken out of service and replaced.</b>  8 <b>Is the tire manufacturer justified in</b>  9 <b>relying on the vehicle manufacturer's instructions on</b>  10 <b>that issue?</b>  11 A I don't know that the vehicle manufacturer  12 gives any instructions on the issue. The vehicle  13 manufacturer has said that they think tires should be  14 replaced after six years. Can the tire manufacturers  15 rely on that? I don't know how they would rely on  16 that.  17 I'm not understanding what you're asking  18 me. Can they rely on that being enough to warn  19 people about aging tires? Is that what you're asking  20 me?  21 <b>Q Well, I guess I was trying to get, you</b>  22 <b>talked about the Volkswagen owner's manuals, and you</b>  23 <b>point to that statement by Volkswagen, and I think</b>  24 <b>you mentioned other vehicle manufacturers, about tire</b>  25 <b>life --</b></p>
<p style="text-align: right;">106</p> <p>1 <b>Do you think there's any risk that with a</b>  2 <b>born date or with -- not the born date but with your</b>  3 <b>labeling of the prototype warning, do you think</b>  4 <b>there's any risk that consumers will falsely rely on</b>  5 <b>that expiration date as more or less a type of</b>  6 <b>warranty that the tire is good for six years or for</b>  7 <b>10 years?</b>  8 A Well, they get a warranty with their tire  9 when they buy it, and I'm not sure how many years the  10 warranty is for, but, no, I don't think so, because  11 this says specifically old tires that are more than  12 10 years old are likely to do that. It doesn't say  13 that, you know, you need to disregard the other  14 problems that you might have with your tire, like  15 tread being too worn out or bulges or cracks in the  16 side of your tire.  17 <b>Q So you don't think that some may think</b>  18 <b>that the tire is safe for 10 years --</b>  19 A No.  20 <b>Q -- regardless of those things?</b>  21 A I don't think so. There's nothing in the  22 warning that would indicate to anybody that otherwise  23 the tire is safe, that if it isn't 10 years old it's  24 safe. There's nothing in there that indicates that.  25 <b>Q Okay. Do the tire manufacturers have a</b></p>	<p style="text-align: right;">108</p> <p>1 A Right.  2 <b>Q -- and replacing the tires.</b>  3 I'm trying to get an understanding, if --  4 you know, let's assume hypothetically if there was a  5 prototype warning on the tire versus information in  6 the owner's manual regarding tire service life, which  7 trumps?  8 A Well, I think that most people would  9 recognize that the tire manufacturers know more about  10 the date that their tire is likely to expire -- and  11 I'm using that word in quotation marks -- than a  12 vehicle manufacturer.  13 So if vehicle manufacturers say, as most  14 of them do, replace your tires after six years, and  15 tires [sic] say, well, you know, tires may be good up  16 to 10 years, I think that the tire -- the person who  17 owns the tire has to say, well, the tire manufacturer  18 says I can use this tire up to 10 years, so ...  19 <b>Q Does -- do you know what type of vehicle</b>  20 <b>was involved in this case?</b>  21 A It was a light truck, a pickup, half-ton  22 pickup.  23 <b>Q Who made it?</b>  24 A Gosh, you know, I don't know. Chevy or  25 Ford, but I don't recall which one.</p>

27 (Pages 105 to 108)

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<p style="text-align: right;">109</p> <p>1 <b>Q It was Chevrolet.</b></p> <p>2 A Was it?</p> <p>3 <b>Q So General Motors.</b></p> <p>4 A M-hm.</p> <p>5 <b>Q Does General Motors include language in</b></p> <p>6 <b>their manuals about tire service life?</b></p> <p>7 A I believe they do, but I can't say they do</p> <p>8 on every vehicle. This was an old 2003 truck, I</p> <p>9 think.</p> <p>10 <b>Q Do you know when they started including</b></p> <p>11 <b>that language?</b></p> <p>12 A No, I don't. I have known. I just don't</p> <p>13 recall at the moment.</p> <p>14 <b>Q All right. If General Motors did not</b></p> <p>15 <b>include language on tire service life, did not</b></p> <p>16 <b>include a recommendation as you've talked about here</b></p> <p>17 <b>today of either six or 10 years, in their owner's</b></p> <p>18 <b>manual for a 2003 Chevrolet pickup, would you be</b></p> <p>19 <b>critical of that?</b></p> <p>20 A Well, most of the American manufacturers</p> <p>21 of vehicles have European counterparts for the</p> <p>22 manufacture of their vehicles, and in those owner's</p> <p>23 manuals, the warning about tires shows up much</p> <p>24 earlier. I don't know how much earlier than 2003, so</p> <p>25 I can't say.</p>	<p style="text-align: right;">111</p> <p>1 work with manufacturers.</p> <p>2 <b>Q Okay. And do you understand that NHTSA</b></p> <p>3 <b>looked at the possibility of revising the date on</b></p> <p>4 <b>tires as recently as 2015 --</b></p> <p>5 A Yes.</p> <p>6 <b>Q -- and decided not to make any</b></p> <p>7 <b>recommendations for changes in that regard?</b></p> <p>8 A Yes, I do.</p> <p>9 <b>Q Going through your report, you state here</b></p> <p>10 <b>on the bottom of page 1 that you were the lead</b></p> <p>11 <b>researcher on three contracts with General Motors and</b></p> <p>12 <b>four contracts with the AAA Foundation to examine</b></p> <p>13 <b>human factors issues associated with capabilities of</b></p> <p>14 <b>drivers, warnings and instructions, and the location</b></p> <p>15 <b>of controls and displays.</b></p> <p>16 A Yep.</p> <p>17 <b>Q Tell me what that work was all about, and</b></p> <p>18 <b>when did you do that?</b></p> <p>19 A Well, you'll see in my C.V. when we did</p> <p>20 those reports, and those reports were done in the</p> <p>21 early '90s, as I recall. We had three contracts, as</p> <p>22 I said, with General Motors and the information that</p> <p>23 we --</p> <p>24 <b>Q This was Rice University --</b></p> <p>25 A Right.</p>
<p style="text-align: right;">110</p> <p>1 <b>Q So you'd have no opinion on that.</b></p> <p>2 A I don't.</p> <p>3 <b>Q Have you ever designed a consumer product?</b></p> <p>4 A No.</p> <p>5 <b>Q You have never worked for a tire company,</b></p> <p>6 <b>have you?</b></p> <p>7 A No.</p> <p>8 <b>Q And your only professional experience</b></p> <p>9 <b>relating to tires is an expert?</b></p> <p>10 A Well, the only professional experience</p> <p>11 related to tires in this regard, yes, uh-huh.</p> <p>12 <b>Q You have done no studies that directly</b></p> <p>13 <b>relate to tires, have you?</b></p> <p>14 A I think I've said that. No.</p> <p>15 <b>Q I know we've asked around this, but I</b></p> <p>16 <b>don't know if I've asked you this question. You have</b></p> <p>17 <b>not written any articles on the subject of tire</b></p> <p>18 <b>service life or tire aging, have you?</b></p> <p>19 A I have not.</p> <p>20 <b>Q And you have not personally written a</b></p> <p>21 <b>warning that has gone on a product that's been sold</b></p> <p>22 <b>to the public, have you?</b></p> <p>23 A I don't do that.</p> <p>24 <b>Q So that answer is no?</b></p> <p>25 A That answer is no, that is not the way I</p>	<p style="text-align: right;">112</p> <p>1 <b>Q -- that had the contracts?</b></p> <p>2 A Rice got the contract and I was -- but it</p> <p>3 was me that wrote the proposal. And so when the</p> <p>4 contract was given to Rice, Rice paid me for the</p> <p>5 work.</p> <p>6 <b>Q Okay.</b></p> <p>7 A In other words, General Motors paid Rice</p> <p>8 and Rice paid me.</p> <p>9 <b>Q And what specifically was the scope of the</b></p> <p>10 <b>human factors analysis?</b></p> <p>11 A Well, I was just about to tell you.</p> <p>12 <b>Q Right, and I apologize for cutting you</b></p> <p>13 <b>off.</b></p> <p>14 A The first study was to look at warnings</p> <p>15 and instructions in owner's manuals and on vehicles,</p> <p>16 for instance on the jack in the back, on the</p> <p>17 radiator, things like that. So we looked at -- we</p> <p>18 identified a series of accidents that occurred that</p> <p>19 didn't have to do with driving, you know, where you</p> <p>20 had a collision, someone ran into somebody else or</p> <p>21 turned into an intersection and got hit. These were</p> <p>22 accidents that were the result of something to do</p> <p>23 with the car.</p> <p>24 So we did a -- we did a study of, I don't</p> <p>25 know, 20 or 25 owner's manuals from vehicles that</p>

28 (Pages 109 to 112)

Lisa F. Laux, PhD - 4/15/2019

<p style="text-align: right;">117</p> <p>1 A Exactly, that's right.</p> <p>2 <b>Q Yeah, fair enough.</b></p> <p>3 <b>Dr. Laux, are you familiar with the Pechac</b></p> <p>4 <b>case?</b></p> <p>5 A Well, that's such an unusual name, I</p> <p>6 remember the name but I don't -- who was -- who hired</p> <p>7 me?</p> <p>8 <b>Q I don't know. Do you -- can you find</b></p> <p>9 <b>it -- I can figure out who hired you probably, but do</b></p> <p>10 <b>you see it on your list?</b></p> <p>11 A It should be on here. I think I've given</p> <p>12 a deposition in that case, but, I mean, it's going to</p> <p>13 take me some time to go through these one by one. Do</p> <p>14 you really want me to do that?</p> <p>15 <b>Q It was in 2018 that you would have been</b></p> <p>16 <b>deposed.</b></p> <p>17 A Okay. Well, then I can just go through</p> <p>18 those.</p> <p>19 I don't see it, which means I probably</p> <p>20 went home and completely forgot about it and didn't</p> <p>21 get it on here.</p> <p>22 <b>Q How about Exhibit 11? Do you see it on</b></p> <p>23 <b>there?</b></p> <p>24 A Well, if it isn't on here, it wouldn't be</p> <p>25 on there.</p>	<p style="text-align: right;">119</p> <p>1 <b>about tire aging?</b></p> <p>2 A No, it wouldn't surprise me, but I don't</p> <p>3 know. I just got through telling you I don't know</p> <p>4 what it was about.</p> <p>5 MR. BOTT: Off the record.</p> <p>6 (Discussion off the record.)</p> <p>7 <b>Q (By Mr. Bott) This Pechac case was pending</b></p> <p>8 <b>in the Superior Court of Arizona.</b></p> <p>9 A Okay.</p> <p>10 <b>Q Does that help refresh your memory at all?</b></p> <p>11 A No, not at all. You seem to have a copy</p> <p>12 of my deposition, so if you could tell me who --</p> <p>13 <b>Q I have parts of it. Yeah, let me tell</b></p> <p>14 <b>you --</b></p> <p>15 A -- who was the attorney who hired me, that</p> <p>16 might --</p> <p>17 <b>Q I don't know if I have that front page. I</b></p> <p>18 <b>only printed out parts of it.</b></p> <p>19 A I see.</p> <p>20 <b>Q But I believe his name began with an S.</b></p> <p>21 <b>That really narrows it down, doesn't it?</b></p> <p>22 A Really a whole lot, yes.</p> <p>23 <b>Q Yeah, I'm a big help.</b></p> <p>24 <b>I can maybe figure that out for you. Hold</b></p> <p>25 <b>on.</b></p>
<p style="text-align: right;">118</p> <p>1 <b>Q Okay. Has your testimony ever been barred</b></p> <p>2 <b>from any court?</b></p> <p>3 A I don't know about barred. I've never</p> <p>4 been excluded that I know of for not being qualified.</p> <p>5 I have been -- I was not allowed to testify in a</p> <p>6 trial in New Orleans because the judge ruled that</p> <p>7 although I was qualified, the jury didn't need to</p> <p>8 hear human factors testimony from either side.</p> <p>9 <b>Q Are you aware of the fact that your</b></p> <p>10 <b>testimony was ruled to be excluded under Daubert --</b></p> <p>11 <b>are you familiar with Daubert?</b></p> <p>12 A Sure.</p> <p>13 <b>Q Were you aware that your testimony was</b></p> <p>14 <b>excluded under a Daubert-type analysis in the Pechac</b></p> <p>15 <b>case?</b></p> <p>16 A No, I wasn't.</p> <p>17 <b>Q Pechac, it was a matter of Pechac versus</b></p> <p>18 <b>Goodyear, and you were deposed on June 18, 2018.</b></p> <p>19 A Well, that I might remember, but I never</p> <p>20 knew that I was not -- that I was excluded. No one</p> <p>21 told me that.</p> <p>22 <b>Q Do you remember what the Pechac case was</b></p> <p>23 <b>about?</b></p> <p>24 A No, I don't.</p> <p>25 <b>Q Would it surprise you to learn that it was</b></p>	<p style="text-align: right;">120</p> <p>1 <b>Matthew Malia (phonetic)? Does that ring</b></p> <p>2 <b>a bell?</b></p> <p>3 A No.</p> <p>4 <b>Q With regard to your case list, if we could</b></p> <p>5 <b>get -- I guess Exhibit 2 would be the most</b></p> <p>6 <b>comprehensive for what I wanted to --</b></p> <p>7 A Well, the newer one.</p> <p>8 <b>Q Yeah, right. And so let me just pick up</b></p> <p>9 <b>in 2018, because I can't really figure out which of</b></p> <p>10 <b>these might have been done after the Pechac</b></p> <p>11 <b>deposition. Okay?</b></p> <p>12 <b>So this one of Everhart versus Reckitt</b></p> <p>13 <b>Benckiser, Southern District of Florida, do you know</b></p> <p>14 <b>what that case was about, what the product was?</b></p> <p>15 A It was -- I'm pretty sure -- well, I don't</p> <p>16 know if that's the one that had to do with the side</p> <p>17 air curtain or not. That's one I did for Sean Cleary</p> <p>18 that I did on --</p> <p>19 <b>Q Side air curtain?</b></p> <p>20 A M-hm.</p> <p>21 <b>Q What is that product? I'm not familiar.</b></p> <p>22 <b>What do you mean? What is it?</b></p> <p>23 A It's the air bag in the --</p> <p>24 <b>Q Oh, yeah.</b></p> <p>25 A -- vehicle that goes down the side, the</p>

30 (Pages 117 to 120)